

As to nominal damages, see also, *B. & O. R. R. Co. v. State*, use Fryer, 30 Md. 54; *B. & O. R. R. Co. v. State*, use Chambers, 81 Md. 388.

The court of appeals can not deal with the matter of excessive damages, or the apportionment thereof. The only remedy for excessive damages, is with the lower court on a motion for new trial. *B. & O. R. R. Co. v. State*, use Hauer, 60 Md. 466.

In the suit of a parent, where the child dies before attaining its majority, no damages can be assessed for pecuniary benefits after the period of such majority, although the child has been emancipated and continues to contribute to its parents' support thereafter; *contra*, if the child dies after attaining its majority, and since that time rendered services to its parent. *Pikesville, etc., R. Co. v. State*, use Russell, 88 Md. 573; *Agricultural, etc., Assn. v. State*, use Carty, 71 Md. 99; *State*, use Coughlan, *v. B. & O. R. R. Co.*, 24 Md. 107.

For the measure of damages in the suit of a parent for the death of his or her minor child, see *Agricultural, etc., Assn. v. State*, use Carty, 71 Md. 99; *B. & O. R. R. Co. v. State*, use Hauer, 60 Md. 467; *Maryland v. Miller*, 180 Fed. 796.

For the measure of damages in a suit by the widow and children of the deceased, see *Consol. Gas Co. v. Smith*, 109 Md. 205; *Baltimore, etc., Turnpike v. State*, use Grimes, 71 Md. 582; *Philadelphia, etc., R. R. Co. v. State*, use Bitzer, 58 Md. 399; *B. & O. R. R. Co. v. State*, use Woodward, 41 Md. 300; *B. & O. R. R. Co. v. State*, use Kelly, 24 Md. 279; *B. & O. R. R. Co. v. State*, use Trainor, 33 Md. 554. And see *Maryland v. Miller*, 180 Fed. 796.

### Limitations.

Since the right of recovery for negligence causing death is altogether dependent upon statute, the failure to sue within the time limited by this section, operates as a complete bar, notwithstanding article 57, section 5, and although the defendant was not suable in Maryland during the year. *Swanson v. Atlantic, etc., Co.*, 156 Fed. 977.

The general rule is that where limitations is not a bar before suit brought, an amendment of the declaration *when the cause of action remains the same*, will not warrant the filing of the plea of limitations, although the period has then expired, and this is true though the original declaration is bad on demurrer; *contra*, when the amendment changes the cause of action. Limitations held not to be a bar. *State*, use Zier, *v. Chesapeake Ry. Co.*, 98 Md. 37. See also, *Western Union Tel. Co. v. State*, use Nelson, 82 Md. 306. *Cf. Hamilton v. Thirston*, 94 Md. 256.

### Generally.

Proof of a reasonable expectation of pecuniary benefit or advantage from a continuance of the life of the deceased, is sufficient to support an action under section 1. The right of action is not conditioned upon a legal claim on the deceased for support, and hence, may include adult children and a married daughter for whom the mother performed services. *B. & O. R. R. Co. v. State*, use Hauer, 60 Md. 467; *B. & O. R. R. Co. v. State*, use Mahone, 63 Md. 145; *B. & O. R. R. Co. v. State*, use Kelly, 24 Md. 281.

All of the parties entitled need not be joined as equitable plaintiffs, nor can those who are entitled be prejudiced by the joinder of some who are not entitled. *Deford v. State*, use Keyser, 30 Md. 208.

This section does not deprive a plaintiff of the right to sue different joint *tort-feasors* separately, although there can be but one satisfaction. There can be, however, only one suit against the same defendant under this article. *State*, use Bashe, *v. Boyce*, 72 Md. 143; *Deford v. State*, use Keyser, 30 Md. 208.

See notes to sec. 1.

As to the liability of equitable plaintiffs for costs, see art. 24, sec. 8.

1904, art. 67, sec. 3. 1888, art. 67, sec. 3. 1860, art. 65, sec. 3.  
1852, ch. 299, sec. 3.

3. In every such action, the equitable plaintiff on the record shall be required, together with the declaration, to deliver to the defendant